

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

THE MCW RESEARCH FOUNDATION, INC.,

Plaintiff,

v.

Case No. 04-C-333

MRI DEVICES CORPORATION,

Defendant.

JURY DEMANDED

COMPLAINT

Plaintiff The MCW Research Foundation, Inc., by its attorneys, for its Complaint against Defendant MRI Devices Corporation, alleges as follows:

PARTIES AND JURISDICTION

1. Plaintiff The MCW Research Foundation, Inc. ("MCW") is a corporation organized under the laws of the State of Wisconsin with its principal place of business at 8701 Watertown Plank Road, Milwaukee, Wisconsin 53226.

2. Defendant MRI Devices Corporation ("MRI Devices") is, on information and belief, a corporation organized under the laws of the State of Wisconsin with its principal place of business at 1515 Paramount Drive, Waukesha, Wisconsin 53186.

3. This is an action for infringement of U.S. Patent No. 5,603,322 ("the '322 Patent"). This action arises under 35 U.S.C. §§ 271, 281, 283, 284, and 285.

4. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1131 and 1338(a).

5. Venue in this Court is proper pursuant to 28 U.S.C. § 1400(b) and §1391(c).

BACKGROUND FACTS

6. MCW was established by the Medical College of Wisconsin to facilitate interaction between College scientists and businesses. An objective of MCW is the transfer of new medical advances developed by College scientists into the commercial sector. One way MCW accomplishes this objective is to obtain patents on the new medical advances and grant licenses under such patents to businesses.

7. MCW is the owner by assignment of the '322 Patent, which issued on February 18, 1997. This patent discloses and claims a method for producing images using a Magnetic Resonance Imaging (MRI) system. A copy of this patent is attached hereto as Exhibit A.

8. MRI Devices is in the business of, among other things, designing, producing, and selling hardware and software accessories for use with MRI systems.

9. MRI Devices makes, uses, sells and offers for sale MRI accessory products in this judicial district and elsewhere in the United States.

COUNT I **DIRECT INFRINGEMENT**

10. Paragraphs 1-9 are incorporated herein by reference.

11. MRI Devices' products have infringed and continue to infringe one or more claims of the '322 Patent by employing the method claimed in the '322 Patent.

12. MRI Devices has been placed on notice that the method used by MRI Devices infringes the '322 Patent.

13. MCW has been and continues to be damaged by MRI Devices' infringement in an amount to be proven at trial, and MCW is entitled to a recovery of its damages, which include but are not limited to, a reasonable royalty under 35 U.S.C. § 284 and damages under 35 U.S.C. § 284.

14. MRI Devices' infringement has caused and continues to cause irreparable harm to MCW, entitling MCW to injunctive relief under 35 U.S.C. § 283.

COUNT II
CONTRIBUTORY INFRINGEMENT

15. Paragraphs 1-14 are incorporated herein by reference.

16. MRI Devices' products are especially adapted, made, offered and sold by MRI Devices for use in a manner that infringes the '322 Patent, are a material part of the inventions claimed in the '322 Patent, have no substantial noninfringing uses, and are not staple articles or commodities of commerce. MRI Devices is contributorily infringing the '322 Patent in violation of 35 U.S.C. § 271(c). These actions have caused and continue to cause MCW damages and irreparable harm.

COUNT III
INDUCING INFRINGEMENT

17. Paragraphs 1-16 are incorporated herein by reference.

18. The use of MRI Devices' products by its customers and end users constitutes a direct infringement of the '322 Patent by such customers and end users.

19. MRI Devices has designed its products for use by its customers and end users in an infringing manner, MRI Devices has promoted such infringing use by its customers and end users, and MRI Devices has induced its customers and end users thereby to infringe the '322 Patent in violation of 35 U.S.C. § 271(b). These actions have caused and continue to cause MCW damages and irreparable harm.

COUNT IV
EXCEPTIONAL CASE

20. Paragraphs 1-19 are incorporated herein by reference.

21. MCW has given MRI Devices notice of its infringement of the '322 Patent. Notwithstanding such notice, MRI Devices continues willfully and wantonly to infringe the '322 Patent, making this is an exceptional case within the provisions of 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff The MCW Research Foundation, Inc. prays that judgment be entered in its favor and against Defendant MRI Devices Corporation as follows:

- A. Adjudging that MRI Devices Corporation has infringed, induced others to infringe, and contributorily infringed U.S. Patent No. 5,603,322.
- B. Adjudging that MRI Devices Corporation's acts of infringement were willful and that this is an exceptional case.
- C. Awarding The MCW Research Foundation, Inc. its damages, including reasonable royalties, and prejudgment interest from the date of the first act of infringement.
- D. Awarding The MCW Research Foundation, Inc. treble damages for MRI Devices Corporation's willful and deliberate patent infringement.
- E. Permanently enjoining MRI Devices Corporation, its agents, servants, employees, successors and assigns, and all others acting in concert with it, from infringing U.S. Patent No. 5,603,322 and restraining it from making, using, offering to sell or selling the infringing MRI products or substantially similar devices.
- F. Awarding The MCW Research Foundation, Inc. its costs and reasonable attorneys' fees incurred in this action.
- G. Awarding such other relief as the Court may deem appropriate.

JURY DEMAND

The MCW Research Foundation, Inc. hereby requests a jury trial of all issues so triable in the above-captioned case.

Dated: April 2, 2004

s/ Nathan D. Jamison

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